

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**DEUTSCHE BANK NATIONAL
TRUST COMPANY,**

Plaintiff,

vs.

ANTOINETTE DOTTORE, et al.,

Defendants.

CASE NO. 1:07CV3359

JUDGE CHRISTOPHER A. BOYKO

ORDER

CHRISTOPHER A. BOYKO, J.:

This matter comes before the Court upon Plaintiff's Motion (ECF DKT #28) to Vacate Judgment and Dismiss Case. For the following reasons, Plaintiff's Motion is denied.

In this foreclosure action, summary judgment was granted in favor of Plaintiff Deutsche Bank and against Defendant-Mortgagor Antoinette Dottore on May 27, 2008. The Court noted at the same time that service had not been perfected on Defendant Commonwealth Financial Services, although more than six months had passed since the filing of the Complaint. After notice and Plaintiff's failure to demonstrate good cause, Commonwealth Financial was dismissed without prejudice for want of prosecution on May 26, 2008.

On July 9, 2008, Plaintiff filed a Notice of Dismissal without prejudice, which the Court

held to be of no effect. Plaintiff now moves to vacate the summary judgment, arguing the property cannot be sold free and clear of liens, because Commonwealth Financial holds a prior recorded interest.

Plaintiff did not point out Commonwealth Financial's prior lien in the documentation in support of the Motion for Summary Judgment, nor did Plaintiff request staying judgment because a prior lienholder had no notice. Plaintiff fails to cite to Fed. R. Civ. P. 60 or to any pertinent sections justifying relief. Moreover, Plaintiff provides no basis upon which the judgment is flawed, only that execution on the judgment will be hampered.

Therefore, Plaintiff's Motion to Vacate Judgment and Dismiss Case is denied.

IT IS SO ORDERED.

DATE: July 21, 2008

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge